COSGRAVE
VERGEER KESTER

Financial Services

Whether the economy is up or down, banks and financial services providers need trusted advisors more than ever. Cosgrave financial services attorneys help clients navigate an ever-changing legal landscape and a complex array of state and federal regulations. When disputes arise, we offer strategic counsel, a strong team of litigators, and alternative dispute resolution experience, backed by in-depth knowledge of the financial sector and the Northwest region.

Clients from all corners of the industry rely on Cosgrave, including banks, mortgage lenders and servicers, mortgage brokers, credit reporting agencies, debt buyers, debt collectors, and financial services trade associations. We defend lenders in cases asserting claims for wrongful foreclosure and violations of consumer protection statutes. We also defend collection agencies and debt buyers against claims for violations of the Fair Debt Collection Practices Act and the Fair Credit Reporting Act. Additionally, we represent commercial financial services providers in prosecuting and defending foreclosure of commercial trust deeds and related security interests.

Our financial services lawyers are well versed in the Fair Credit Reporting Act, Fair Debt Collection Practices Act, Truth In Lending Act, Oregon Mortgage Lender Law, Oregon Unlawful Trade Practices Act, Washington Consumer Protection Act, and other legislation impacting the financial services industry. We work in concert across practice groups to give clients seamless service, as well as forward-looking guidance on emerging issues.

PRACTICE AREAS

Arbitration & Mediation

Business & Commercial Litigation

Business & Corporate Law

Employment Law

Employment Litigation

Professional Liability

Real Estate Law

Regulatory

Taxation

ATTORNEYS

Timothy J. Fransen

Chester D. Hill

Daniel C. Peterson

Julie A. Smith

Shane P. Swilley

Expertise and Experience

Federal and State Consumer Finance Litigation

- Fair Debt Collection Practices Act (FDCPA)
- Fair Credit Reporting Act (FCRA)
- Truth in Lending Act (TILA)
- Real Estate Settlement Procedures Act (RESPA)
- Consumer Financial Protection Bureau (CFPB) Regulations
- Oregon Unlawful Trade Practices Act (UTPA)
- Oregon Unlawful Debt Collection Practices Act (OUDCPA)

- Washington Consumer Protection Act (WCPA)
- Washington Collection Agency Act (WCAA)

Wrongful Foreclosure Defense

- Standing and assignment issues
- Challenges to default
- Disputes relating to loan modification
- Consumer Financial Protection Bureau (CFPB) regulatory issues

Regulatory and Administrative Investigations

- Oregon Attorney General Civil Investigative Demands (CIDs)
- Consumer Financial Protection Bureau (CFPB) Examinations and Investigations
- Oregon Division of Financial Regulation investigations
- Washington Attorney General CIDs
- Washington Department of Licensing investigations

Compliance with Federal and State Protection Financial Laws

- Consumer Financial Protection Bureau (CFPB) Regulations
- Fair Debt Collection Practices Act (FDCPA)
- Oregon Mortgage Lender Law
- Oregon Unlawful Debt Collection Practices Act (OUDCPA)

Representative Experience

Otto v. Kavanaugh

Following settlement of an FDCPA claim, Cosgrave succeeded in obtaining an order drastically limiting plaintiff's recovery of attorney fees. By laying out the history of pre-suit negotiations between the parties, Cosgrave succeeded in showing plaintiff's attempt to run up fees, thereby limiting plaintiff to less than one-third of his claimed fees.

Fleshman v. Wells Fargo

In a motion to dismiss, Cosgrave successfully argued that the relationship between a mortgage servicer and borrower is an arm's length relationship to which ordinary negligence duties do not apply. As a result of the motion, tort claims against the servicer were dismissed with prejudice.

Brandrup v. Recontrust – Oregon's Landmark MERS Decision

Knowing the huge impact the case would have on lending and servicing in Oregon, Cosgrave's team of financial services and appellate attorneys filed an amicus brief on behalf of the Mortgage Bankers Association, Oregon Bankers Association, and Independent Community Banks of Oregon in the Oregon Supreme Court.

Morin v. Professional Credit Service & Peak v. Professional Credit Service

In these two federal lawsuits, Cosgrave prevailed on motions for summary judgment against hotly-contested FDCPA claims – one alleging that the debtor was not liable for the subject debts; and the other alleging that voice mails left for the debtor were impermissible communications. In both cases, Cosgrave steered the cases toward successful resolution for its clients through targeted discovery and critical analysis of case law.

Affiliations

- Association of Credit and Collection Professionals (ACA International)
- Oregon Collectors Association
- Oregon Bankers Association
- Oregon Association of Defense Counsel (OADC)
- ALFA International Business Litigation Practice Group
- Receivables Management Association International (RMAi)
- Washington Collectors Association

ACA® INTERNATIONAL
The Association of Credit and Collection Professionals
Member